

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Terrel Durr,

Petitioner

v.

Warden High Desert State Prison, *et al.*,

Respondents

Case No.: 2:22-cv-00732-JAD-NJK

**Order Granting Motion to Seal and
Granting Extension of Time to Respond to
Amended Petition to
January 29, 2024**

[ECF Nos. 29, 31]

Respondents have two motions pending in Terrel Durr’s 28 U.S.C. § 2254 habeas corpus matter, in which he challenges his conviction of robbery in the Eighth Judicial District Court (Clark County, Nevada) and adjudication as a habitual criminal.¹ First, for good cause appearing, I grant respondents’ motion for a brief extension of time to file a response to the amended petition.²

Second, respondents have filed a motion for leave to file an exhibit *in camera* and under seal.³ While there is a presumption favoring public access to judicial filings and documents,⁴ a party seeking to seal a judicial record may overcome the presumption by demonstrating “compelling reasons” that outweigh the public policies favoring disclosure.⁵ In general, “compelling reasons” exist where the records may be used for improper purposes.⁶ Here,

¹ ECF No. 20.

² ECF No. 30.

³ ECF No. 29.

⁴ *See Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978).

⁵ *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006) (citations omitted).

⁶ *Id.* at 1179 (citing *Nixon*, 435 U.S. at 598).

1 respondents ask to file Durr's presentence investigation report ("PSI") *in camera* and under seal
2 because it is confidential under state law.⁷ They also state, without elaboration, that concerns
3 about the safety of Durr and the victim warrant the filing of the PSI *in camera* and under seal. I
4 have reviewed the PSI and conclude that respondents have demonstrated compelling reasons to
5 file the PSI under seal. But the PSI does not appear to include information that is so sensitive
6 that it would pose a security threat to Durr if he had a copy of the PSI in his cell, and it does not
7 identify the victim. Respondents note that the PSI may be necessary to address some grounds in
8 the petition. In that event, Durr may need access to the PSI. So the motion is granted in part,
9 and the PSI will remain under seal.

10 IT IS THEREFORE ORDERED that respondents' third unopposed motion for extension
11 of time to file a response to the amended petition [ECF No. 31] is **GRANTED** *nunc pro tunc*.
12 **The deadline to file the response is extended to January 29, 2024.**

13 IT IS FURTHER ORDERED that respondents' motion for leave to file exhibit *in camera*
14 and under seal [ECF No. 29] is **GRANTED in part and DENIED in part**. The exhibit will
15 remain under seal.

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U.S. District Judge Jennifer A. Dorsey
January 23, 2024
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⁷ ECF No. 29.